

Copies Mailed/Faxed

Chambers of Vincent L. Briccetti

**USDC SDNY**  
**DOCUMENT**  
**ELECTRONICALLY FILED**  
 DOC #:  
 DATE FILED: 5/6/25

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

-----X  
 CALVIN SMITH,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.  
 -----X

**ORDER TO ANSWER**

25-CV-2894 (VB)

21-CR-0802-1 (VB)

By Order dated April 9, 2025, the Court directed petitioner to show cause why his motion pursuant to 28 U.S.C. § 2255 should not be denied as time barred. In a declaration filed on May 5, 2025, petitioner contends he is actually innocent and thus his Section 2255 motion is not time barred.

The Court concludes that the Section 2255 motion should not be summarily denied as being without merit. To be clear, the Court has not decided that the motion is not time barred.

Accordingly, it is hereby ORDERED:

The Clerk of Court shall electronically notify the Criminal Division of the U.S. Attorney's Office of the Southern District of New York that this Order has been issued.

By July 7, 2025, the U.S. Attorney's Office shall file an answer or other pleading in response to the motion, which shall address both the timeliness of the motion as well as the merits. Petitioner shall have until August 4, 2025, to file a reply to the government's submission. Absent further order, the motion will be considered fully submitted as of that date.

All other papers filed or submitted must include the civil and criminal docket numbers.

The Clerk is directed to mail a copy of this Order to petitioner at the address on the docket in case no. 25-cv-2894 (VB).

Dated: May 6, 2025  
 White Plains, NY

SO ORDERED:



Vincent L. Briccetti  
 United States District Judge